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8 **UNITED STATES DISTRICT COURT**

9 **FOR THE DISTRICT OF ARIZONA**

10

11 Cornele A. Overstreet, Regional Director of
12 the Twenty-Eighth Region of the National
13 Labor Relations Board, for and on behalf of
14 the National Labor Relations Board,

15 Petitioner,

16 v.

17 Lucid USA, Inc.,

18 Respondent.

Case No. 2:24-cv-01356-DJH

19 **JOINT PREHEARING
STATEMENT**

20 Petitioner Cornele A. Overstreet, on behalf of the National Labor Relations Board
21 ("Petitioner or NLRB"), and Respondent Lucid USA, Inc. ("Respondent" or "Lucid"), by and
22 through their undersigned counsel, hereby submit this Joint Prehearing Statement in advance
23 of the preliminary injunction hearing scheduled for August 9, 2024.

24 **A. COUNSEL FOR THE PARTIES**

25 **Counsel for Petitioner:**

26 Tucker Bingham

27 National Labor Relations Board, Region 28

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9 **B STATEMENT OF JURISDICTION**

10 Section 10(j) of the National Labor Relations Act. The parties do not dispute that this
11 Court has jurisdiction over this matter.

13 **C. LIST OF WITNESSES**

14 1. Petitioner's Witnesses

15 a. To be called

16 • **Amie Hansen** - c/o Tucker Bingham, Attorney for Petitioner

17 Expected to testify about her work at Lucid, her union activities, and her
18 termination.

19 • **Chad Brewer** - c/o Tucker Bingham, Attorney for Petitioner

20 Expected to testify about his work at Lucid, his union activities, and his
21 termination.

22 • **Tiffany Lopez** - c/o Steve Biddle, Attorney for Respondent

23 Expected to testify about her role as HRBP, her investigation of time records,
24 Lucid's policies, knowledge of union activities, and terminations of Hansen
25 and Brewer.

26 • **Miguel Paredes** - c/o Steve Biddle, Attorney for Respondent

27 Expected to testify about his role at Lucid, Lucid's policies, his knowledge
28 of union activities, and his interactions with and terminations of Hansen and

1 Brewer.

2 • **Layton Ratliff** - c/o Steve Biddle, Attorney for Respondent

3 Expected to testify about his role at Lucid, Lucid's policies, his knowledge
4 of union activities, and his interactions with and terminations of Hansen and
Brewer.

5 • **Jake Steele** - c/o Steve Biddle, Attorney for Respondent

6 Expected to testify about his role at Lucid, Lucid's policies, his knowledge
7 of union activities, and his interactions with and terminations of Hansen and
Brewer.

8 b. May be called

9 c. Unlikely to be called

10 2. **Respondent's Witnesses**

11 a. To be called

12 • Same as Petitioner

13 b. May be called

14 • **Carla Villanueva**, Oakland, CA, UAW Representative, involved in union
15 campaign at Lucid

16 • **Kelvin Ho**, San Diego, CA, UAW Representative, involved in union
17 campaign at Lucid

18 c. Unlikely to be called

19 Each party understands that it is responsible for ensuring that the witnesses it wishes to
20 call to testify are subpoenaed. Each party further understands that any witness a party wishes
21 to call shall be listed on that party's list of witnesses above and that party cannot rely on that
22 witness having been listed or subpoenaed by another party.

23 **D. LIST OF EXHIBITS**

24 1. The following exhibits are admissible in evidence and may be marked in
25 evidence by the Clerk:

- 1 a. Petitioner's Exhibits:
 - 2 1. Unfair Labor Practice Charge 28-CA-313086
 - 3 2. Unfair Labor Practice Charge 28-CA-322749
 - 4 3. Order Consolidating Cases, Consolidated Complaint and Notice
5 of Hearing
 - 6 4. Respondent's Answer to Complaint
 - 7 5. Affidavit of Amie Hansen Dated 7.19.23
 - 8 6. Affidavit of Chad Brewer Dated 7.25.23
 - 9 7. Affidavit of Carla Villanueva dated 1.25.24 and attached exhibits
 - 10 8. Affidavit of Kelvin Ho dated 1.23.24
 - 11 9. Screenshot of Text Message to Brewer
 - 12 10. Flyers with QR codes distributed at Respondent's facility
 - 13 11. United Auto Workers Survey Webpage
 - 14 12. Respondent's position statement in 28-CA-313086 and attached
15 exhibits
 - 16 13. Order Rescheduling Hearing to Oct. 9, 2024
 - 17 14. 1.19.23 email chain: PWT union meeting
 - 18 a. PWT union meeting
 - 19 b. PWT union meeting
 - 20 c. PWT union meeting
 - 21 d. PWT union meeting
 - 22 e. PWT union meeting
 - 23 f. PWT union meeting
 - 24 15. 1.19.23 email: Union Push at Powertrain
 - 25 16. 1.19.23 email: Attendance record request
 - 26 17. 1.24.23 email: more Union activity at PWT email
 - 27 18. 1.24.23 chat log between Lopez and Atwood
 - 28 19. 1.24.23 chat log between Lopez, Cucuz, Kantautas
 - 20 20. 1.25.23 email: QR Code Found, 1/25
 - 21 21. 1.26.23 email: QR Code Found 1/25

- 1 22. 1.26.23 email: RE: Badging history request (Amie Hansen)
- 2 23. 1.26.23 email: RE: Badging history request (Chad Brewer)
- 3 24. 1.31.23 email: 1:1 Introduction
- 4 25. 2.1.23 email: Re: Additional Union Information
- 5 26. 2.2.22 email: Badging History Request
- 6 27. 2.2.23 email: Unionization Efforts
- 7 28. 2.3.23 email: Re: Unionization Efforts
- 8 29. 2.6.23 email: Union Propaganda collected from Breakroom at
9 Hanna
- 10 30. 2.6.23 chatlog between Lopez and Bradbury
- 11 31. 2.7.23 email: Union Literature
- 12 32. 2.7.23 email: ***URGENT*** Amie Hansen- misconduct- Theft
13 of Time
- 14 33. 2.7.23 email: ***URGENT*** Misconduct- Theft of Time,
15 Brewer, Chad
- 16 34. 2.7.23 email: FW: Terminations – Hansen, Amie 003216
- 17 35. 2.7.23 email: Amie Hansen- Discharge
- 18 36. 2.7.23 email: Chad Brewer- Discharge
- 19 37. 2.7.23 email: Hansen, Amie-Misconduct Document- Theft of
20 Time
- 21 38. 2.7.23 observation of employee misconduct form: Amie Hansen
- 22 39. 2.7.23 observation of employee misconduct form: Chad Brewer
- 23 40. 2.7.23 email chain: Re: Hello
 - 24 a. Re: Hello
 - 25 b. Re: Hello
 - 26 c. Re: Hello
- 27 41. 2.7.23 email: Terminations- Hansen, Amie 003216
- 28 42. 2.10.23 email: RE: Union literature
 - a. RE: Union literature

- b. RE: Union literature
- 43. 2.10.23 email: Resized_R.jpg
- 44. 2.10.23 email: Re: Termination-Nahu Aron Garcia Torres Sr.
- 45. 3.22.23 email: Updates to Kronos Workforce Management
- 46. 6.9.23 email: 1:1 introduction
- 47. 6.9.23 email: Operation Optimize

Respondent's Exhibits (in addition to the Exhibits listed by Petitioner):

- 1. NLRB June 2, 2023 Request for Evidence (Charge 28-CA-313086)
- 2. NLRB August 30, 2023 Request for Evidence (Charge 28-CA-322749) and for Lucid's Position on 10(j) Relief
- 3. Lucid's September 8, 2023, Position Statement and attachments in Response to Charge and Request for Evidence and request for position on 10(j) Relief
- 4. NLRB's September 29, 2023 Letter requesting additional information concerning Charge 28-CA-322749
- 5. Lucid's October 18, 2023 Response to NLRB's September 29, 2023 Letter and attachments
- 6. NLRB's December 28, 2023 Letter re: withdrawal of portion of allegations of Charge 28-CA-322749 concerning alleged unlawful termination of Ronald Caudillo
- 7. Tiffany Lopez Declaration (June 23, 2023)
- 8. Jake Steele Declaration (June 20, 2023)
- 9. Layton Ratliff Declaration (June 20, 2023)
- 10. Miguel Paredes Declaration (June 20, 2023)
- 11. Carla Villanueva Deposition Transcript (August 2, 2024)
- 12. Kelvin Ho Deposition Transcript (August 2, 2024)
- 13. Different versions of QR code flyers

- 1 14. Hansen Badge History Report and Time Records for November
- 2 2022-January 2023
- 3 15. Brewer's Badge History Report and Time Records for November
- 4 2022-January 2023
- 5 16. Map of Powertrain Building
- 6 17. Spreadsheet – Other Terminations
- 7 18. Thomas White Action Form
- 8 19. Torres Term Concurrence
- 9 20. Zobeyda Sotelo Action Form
- 10 21. Pantoja Action Form

11 2. As to the following exhibits, the parties have reached the following stipulations:

- 12 a. Petitioner's Exhibits:
- 13 b. Respondent's Exhibits:

14 3. As to the following exhibits, the party against whom the exhibit is to be offered
15 objects to the admission of the exhibit and offers the objection stated below:

- 16 a. Petitioner's Exhibits:
- 17 b. Respondent's Exhibits: As to Respondent's Exhibit 22, Petitioner objects
18 for lack of foundation and inappropriate summary under Rule 1006.

19 Each party hereby acknowledges by signing this Joint Prehearing Statement that any
20 objections not specifically raised herein are waived.

21

22 **E. DEPOSITIONS TO BE OFFERED**

23 Each party hereby acknowledges by signing this Joint Prehearing Statement that any
24 deposition not listed as provided herein will not be allowed, absent good cause.

25 Petitioner's Depositions to be Offered:

- 26 1. Jake Steele Deposition Transcript (August 1, 2024)
- 27 2. Layton Ratliff Deposition Transcript (August 1, 2024)
- 28 3. Miguel Paredes Deposition Transcript (August 1, 2024)

1 4. Tiffany Lopez Deposition Transcript (July 30, 2024)

2 5. Carla Villanueva Deposition Transcript (August 2, 2024) (portions to be read
3 into the record: Page 39, lines 23-25; Page 40, lines 1-2; Page 42, lines 1-6; Page 48, line 25;
4 Page 49, lines 1-7; Page 50, lines 17-25; Page 51, lines 1-2; Page 56, lines 14-18)

5 6. Kelvin Ho Deposition Transcript (August 2, 2024) (portions to be read into the
6 record: Page 28, lines 15-24)

7 Respondent's Depositions to be Offered:

8 1. Carla Villanueva Deposition Transcript (August 2, 2024) (portions (pages:lines)
9 to be read into the record: 8:6-10:12; 11:12-25; 12:4-18; 13:10-15:4; 15:23-16:8; 16:15-17:1;
10 17:10-18:6 19:11-25; 22:10-15; 26:16-27:4; 27:13-24; 28:7-17; 28:25-29:8; 30:25-31:24;
11 33:14-34:4; 34:11-25; 36:5-38:9; 38:18-23; 39:18-40:19; 41:17-42:18; 43:1-44:17; 45:5-
12 46:22; 47:2-48:4; 49:17-21; 50:17-54:9; 54:24-55:6; 56:4-9; 56:14-58:9; 58:20-59:7; 60:20-
13 66:20; 69:7-10; 71:7-10; 73:7-16)

14 2. Kelvin Ho Deposition Transcript (August 2, 2024) (portions (pages:lines) to be
15 read into the record: 7:15-8:10; 8:16-9:6; 9:9-10:10; 10:14-22; 11:2-9; 11:13-13:10; 13:23-
16 14:4; 14:16-23; 15:10-17:6; 18:12-23:18; 24:10-22; 25:16-26:24; 27:25-29:18; 30:2-21;
17 32:16-20; 33:11-19)

18 3. Amie Hansen Deposition Transcript (July 30, 2024)

19 4. Chad Brewer Deposition Transcript (July 27, 2024)

20 Each party hereby acknowledges by signing this joint pre-hearing statement that any
21 deposition not listed as provided herein will not be allowed, absent good cause.

23 **F. ESTIMATED LENGTH OF HEARING**

24 The Court has set aside six hours for this hearing.

26 **G. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

27 Each party is separately submitting its Proposed Findings of Fact and Conclusions of
28 Law in conjunction with this Joint Prehearing Statement. The Proposed Findings of Fact and

Conclusions of Law are being submitted by:

1. Electronically filing a Notice of Filing the Proposed Findings of Fact and Conclusions of Law with the Clerk of the Court (the Proposed Findings of Fact and Conclusions of Law will be attached to the Notice);

2. **Courtesy hard copy** is being delivered or mailed to chambers (papers shall be three-hole punched); and

3. **Courtesy electronic copy in Microsoft Word format** is being sent to the chambers e-mail address (Humetewa_Chambers@azd.uscourts.gov). Additionally, Petitioner is submitting in this fashion a proposed preliminary injunction, including the proposed bond amount, if any.

RESPECTFULLY SUBMITTED this 5th day of August 2024.

/s/ Tucker Bingham (with permission)

Tucker Bingham
NATIONAL LABOR RELATIONS
BOARD, REGION 28
Attorneys for Petitioner

/s/ Steven G. Biddle

Steven G. Biddle
Adam-Paul Tuzzo (*Pro Hac Vice*)
Yijee Jeong
LITTLER MENDELSON, P.C.
Attorneys for Respondent

I hereby certify that I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants, and mailed a copy of same to the following if non-registrants, this 5th day of August 2024:

Tucker Bingham, AZ Bar No. 037427
National Labor Relations Board, Region 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004
Attorneys for Petitioner

/s/ Tisha A. Davis
4878-4219-1573.1 / 100571-1030